

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
GERARDO MOTA BAUTISTA, HUGO
BAUTISTA, JUAN LUIS OVANDO ZEPEDA,
JUAN ZEPEDA, JULIO RICARDO ALVAREZ
MACATOMA, LEONCIO TORRES ACUNA,
MARIO MORALES ROJAS, OMAR
RODRIGUEZ, and ANTONIO LIMON
HERNANDEZ, *individually and on behalf of
others similarly situated,*

Plaintiffs,

-against-

COUNTY-WIDE MASONRY CORP.,
CARBEN INDUSTRIES, INC., CARBEN
CONCRETE, INC., CARBEN
CONSTRUCTION INC., ANTHONY
DERASMO, ANTHONY LOGIUDICE,
RONALD BROWNING, and MARTIN DOE
a/k/a PERU,

Defendants.

ANALISA TORRES, District Judge:

USDC SDNY
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19 Civ. 8808 (AT)

ORDER

Plaintiffs, who were construction workers on two projects in Manhattan and Brooklyn, bring this action against Defendants County-Wide Masonry Corp. (“County-Wide”), Carben Industries, Inc., Carben Concrete, Inc., Carben Construction Inc. (collectively, “Carben”), Anthony Derasmo, Anthony LoGiudice, Ronald Browning, and Martin Doe a/k/a Peru. Plaintiffs seek unpaid minimum and overtime wages pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.*, and the New York Labor Law (“NYLL”) §§ 190 *et seq.* and 650 *et seq.* County-Wide and Derasmo (together, the “County-Wide Defendants”) and Carben, LoGiudice, and Browning (together, the “Carben Defendants”) each move for summary judgment on the ground that they were not Plaintiffs’ employers. County-Wide Mot., ECF No. 151; Carben Mot., ECF No. 156. The County-Wide Defendants and the Carben Defendants also move for summary judgment against each other, seeking dismissal of the cross-claims for indemnification that each asserted. County-Wide Mot.; Carben Mot.

The County-Wide Defendants’ motion for summary judgment against Plaintiffs is DENIED, and its motion against the Carben Defendants is GRANTED. The Carben Defendants’ motion for summary judgment against the Plaintiffs is DENIED, and its motion against the County-Wide Defendants is GRANTED. In due course, the Court shall issue a memorandum opinion addressing the parties’ summary judgment motions.

The Clerk of Court is directed to terminate the motions at ECF Nos. 151 and 156.

SO ORDERED.

Dated: September 29, 2023
New York, New York



ANALISA TORRES
United States District Judge